

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:

CIVIL ACTION: 01-CV-12257-PBS

State of Montana v. Abbott Labs., Inc., et al.,
Cause No. CV-02-09-H-DWM (D. Mont.),

Judge Patti B. Saris

**DECLARATION OF JENIPHR BRECKENRIDGE IN SUPPORT OF
THE STATES OF NEVADA AND MONTANA'S MEMORANDA IN OPPOSITION
TO THE INDIVIDUAL DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

I, Jeniphr Breckenridge, declare:

1. I am a partner of Hagens Berman Sobol Shapiro LLP, resident in its Seattle, Washington, office, and I am counsel for the States of Montana in the above-captioned matter.

Attached hereto are true and correct copies of the following exhibits:

Ex. 1	Declaration of Raymond S. Hartman, Calculation of Damages and Penalties for the State of Montana dated June 13, 2006.
Ex. 2	Supplementary Declaration of Raymond S. Hartman, Calculation of Damages and Penalties for the State of Montana dated June 20, 2006.
Ex. 3	Declaration of Raymond S. Hartman, Calculation of Damages and Penalties for the State of Nevada dated June 13, 2006.
Ex. 4	Supplementary Declaration of Raymond S. Hartman, Calculation of Damages and Penalties for the State of Nevada dated June 19, 2006.
Ex. 5	Exhibit A to the Montana Second Amended Complaint.
Ex. 6	Exhibit A to the Nevada Amended Complaint.
Ex. 7	Deposition of Duane Preshinger dated April 20, 2006 (excerpted pages only).

Ex. 8	Letter to Nancy Ellery and Mary Dalton from Terry Krantz dated July 24, 1992 re Direct vs Average Wholesale Pricing (MT 005440).
Ex. 9	In the matter of the amendment of ARM 37.86.1101 and 37.86.1105, Notice of Amendment dated June 17, 2002 (MT 013531-39).
Ex. 10	Fax to Karen & Kip, Corvallis Drug from Shannon Marr dated May 21, 2002 re Direct Pricing (MT 005358-59).
Ex. 11	Letter to Jim Smith of the Montana State Pharmaceutical Association from Dorothy Poulsen dated April 15, 1999 (MT 005370-72).
Ex. 12	Document titled <i>Recent Changes to the Montana Medicaid Prescription Drug Program</i> (MT 013843).
Ex. 13	Deposition of Terry Krantz dated March 17, 2006 (excerpted pages only).
Ex. 14	Document titled <i>Direct Pricing Impact</i> created by Terry Krantz August 11, 1994 (MT 005466).
Ex. 15	Letter to Department of Public Health and Human Services from Deborah Saez dated November 14, 2003 re Average Sale Prices (MT 038039-47).
Ex. 16	Document titled <i>Health Care Policy Fast Facts</i> (IAWP012960).
Ex. 17	Interoffice Memorandum to Pricing Committee from Kathleen Stamm dated March 8, 1994 re AWP Reimbursement on Leucovorin (IAWP002694).
Ex. 18	Document titled <i>Average Wholesale Price (AWP) & Billing Code Guide</i> (IAWP116111).
Ex. 19	Document titled <i>Promotional Information Review re AWP Product Guide</i> by T. Davis August 26, 1993 (IAWP112178-81).
Ex. 20	Letter to Don Jewler from Mary Lipinsky dated January 12, 1995 re new suggested AWP's for Immunex products (IAWP002632).
Ex. 21	Letter to Roni Lane from Mary Lipinsky dated January 12, 1995 re new suggested AWP's for Immunex products (IAWP109286).
Ex. 22	Document titled <i>Red Book Product Listing Verification</i> created by Mary Lipinski August 28, 1995 (IAWP021102-04).
Ex. 23	Letter to Kathleen Stamm from Lisa Brandt dated January 12, 1996 re latest AWP price changes (IAWP058538-50).

Ex. 24	Document titled <i>Immunex Reimbursement Training</i> (IAWP086642; IAWP086652; IAWP086657).
Ex. 25	Fax to Becky Hayes, Anne K. and Mary Lipinski from Kathleen Stamm dated October 22, 1997 (IAWP080507-09).
Ex. 26	Document titled <i>HCP/MMC Strategy Meeting: POA II – 95</i> (IAWP111514).
Ex. 27	Document titled <i>Overview: Immunex Reimbursement Program</i> (IAWP108782-84).
Ex. 28	Handwritten notes from Mary Lipinski (IAWP081840-41; IAWP085316-18).
Ex. 29	Document titled <i>Reimbursement of Neupogen vs Leukine</i> (IAWP111515-17; IAWP111523; IAWP109275-76).
Ex. 30	Document titled <i>Cost and Revenue Comparison Between GM-CSF & G-CSF</i> (IAWP148490-98).
Ex. 31	Fax to Bart Jones from Gary Conte dated March 10, 1995 re Medicare Reimbursement Numbers for Leukine and Neupogen (IAWP111520-22).
Ex. 32	Interoffice Memorandum to Paul Kersten from Dave Klaum dated May 30, 1995 re Monthly Report/May 1995 (FJ-MDL 005667-69).
Ex. 33	Document titled <i>List Price Analysis</i> by Sue Lindsey dated February 19, 1996 (FJ-MDL 005072-78).
Ex. 34	Interoffice Memorandum to Paul Kersten from Dave Klaum dated March 30, 1995 re March 1995 Monthly Report (FJ-MDL 005687-89).
Ex. 35	Document titled <i>T2 Medical, Coram Healthcare Corporation, Vendor Bid Response – Fujisawa USA, Inc., Item Bid Prices with Contract Start/End Dates</i> dated January 10, 1995 (FJ-MDL 008131-41).
Ex. 36	Interoffice Memorandum to Mark Wanda from Carol Robey dated October 5, 1993 re AWP Outside Distribution List (FJ-MDL 008346-47).
Ex. 37	Letter to Fujisawa USA, Inc., Pharmaceutical Buyers, Sales Managers from Michael Schultz dated December 15, 1995 re Doxorubicin Hydrochloride for Injection, USP (FJ-MDL 013280-83).
Ex. 38	Fax to Connie/MediSpan from Carol Robey dated March 10, 1997 re Latest WH, HO, AWP Price Listing (FJ-MDL 015152-59).

Ex. 39	Document titled <i>Corporate Integrity Agreement Between the Office of the Inspector General of the Department of Health and Human Services and AstraZeneca Pharmaceuticals LP and AstraZeneca LP</i> dated June 4, 2003.
Ex. 40	Deposition of Dorothy Poulsen dated February 22, 2006 (excerpted pages only).
Ex. 41	Document titled <i>Federal Drug Price Negotiation: Implications for Medicare Part D</i> by Jim Hahn dated January 5, 2007.
Ex. 42	Document titled <i>AstraZeneca Annual Spreads</i> .
Ex. 43	Letter to Lisa, Red Book from Michael Heggie dated December 13, 1993 re information on a new Abbott product for inclusion in the 1994 Red Book (ABT AWP/MDL 044893-901).
Ex. 44	Document titled <i>Abbott Laboratories AWP Based on Medispan Formula of List Price X 1.2</i> (ABT AWP/MDL 044287-316).
Ex. 45	(ABT AWP/MDL 006499).
Ex. 46	Email to Jerrie Cicerale from Terri Factora dated January 19, 2000 re calculation used to figure AWP for Abbott HPD products (ABT AWP/MDL 071942).
Ex. 47	Email to Jerrie Cicerale from Roni Lane dated February 11, 2000 re calculation used to figure AWP for Abbott HPD products (ABT AWP/MDL 071943).
Ex. 48	Email to Jerrie Cicerale from Gerald Eichhorn dated March 20, 1995 re Vancomycin list price (ABT AWP/MDL 072200).
Ex. 49	Document titled <i>Participation Listing</i> (ABT AWP/MDL 006305-334).
Ex. 50	Email to David Brennan and John Freeberry from Rachel Bloom-Baglin dated January 30, 2002 re AWP Spread "White Paper" (AZ0565611-14).
Ex. 51	Email to David Meddis from Barnabas Desta dated June 29, 2001 re costs Seroquel (AZ0445640-41).
Ex. 52	Email to Mark Boyer from John Freeberry dated November 30, 2001 re Drug Topics Red Book and PDR (AZ0465663).

Ex. 53	Email to Traci Kellam from Janet Rosenberg dated November 27, 2002 re AWP Price for Prilosec (AZ0473119).
Ex. 54	Document re WAC and AWP (AZ0463896-905).
Ex. 55	Document titled <i>Entocort EC: A Training Program for Pharmaceutical Sales Specialists on Understanding the Entocort EC Distribution Channel</i> (AZ0619988-95).
Ex. 56	Letter to Field Sales Force District Managers from Steve Kipperman dated May 26, 1994 re Red Book – Product Price Listing Report (Attached to letter) (ABT AWP/MDL 088162-205).
Ex. 57	Deposition of John Richard Freeberry dated May 20, 2004 (excerpted pages only).
Ex. 58	Deposition of Jeff Buska – Volume 3 – dated December 15, 2006 (excerpted pages only).
Ex. 59	Deposition of Christopher J. Iacono – Volume 1 – dated June 9, 2005 (excerpted pages only).
Ex. 60	Deposition of Carol L. Ware dated October 25, 2005 (excerpted pages only).
Ex. 61	Document titled <i>Business to Business, A Quarterly Newsletter from Centeon's Corporate Accounts and Sales Operations</i> dated April 1996 (ABAWP 000846-52).
Ex. 62	U.S. DOJ Press Release, “ <i>TAP Pharmaceutical Products Inc. and Seven Others Charged With Health Care Crimes; Company Agrees to Pay \$875 Million to Settle Charges</i> ” dated October 3, 2001.
Ex. 63	Letter to State Pharmacy Manager from Glenn Weiglein, Director, Contracts and Pricing, TAP dated May 15, 2006 re ASP Reporting Under TAP's Corporate Integrity Agreement (MT 037947-56).
Ex. 64	Deposition of John Chappuis dated April 21, 2006 (excerpted pages only).
Ex. 65	Deposition of Nancy Ellery dated April 11, 2006 (excerpted pages only).
Ex. 66	Deposition of Coleen Lawrence – Volume 2 – dated August 16, 2005 (excerpted pages only).

Ex. 67	Deposition of Coleen Lawrence – Volume 3 – dated March 23, 2006 (excerpted pages only).
Ex. 68	Deposition of Laurie Squartsoff dated March 6, 2006 (excerpted pages only).
Ex. 69	Deposition of Charles Duarte dated January 10, 2007 (excerpted pages only).
Ex. 70	Document titled <i>Calcijex by GCN 93140/93141 from 1/1/91-present</i> .
Ex. 71	Deposition of Harvey Weintraub dated August 25, 2005 (excerpted pages only).
Ex. 72	Deposition of Jerome Sherman dated July 7, 2005 (excerpted pages only).
Ex. 73	Mailgram to Kay Morgan, First DataBank from Frank Dilascia, Schering dated December 3, 2001 re price increases for Schering products (FDB-AWP 03929-32).
Ex. 74	Fax to LNA, First DataBank from Peter Kamins re price increases for Schering products (FDB-AWP 03988-90).
Ex. 75	Letter to Mukesh Mehta, Redbook from Harvey Weintraub dated December 29, 1995 re Albuterol pricing (WAR0007634).
Ex. 76	Letter to Beth Rader, First DataBank from Harvey Weintraub dated February 23, 1995 re Albuterol price increase (WAR0024086).
Ex. 77	Letter to Customers of Schering Laboratories from Frank Dilascia re price increases for Schering products (SPF0057742).
Ex. 78	Letter to Jacob Blatt, Merck-Medco from Harvey Weintraub dated November 18, 1997 re Albuterol pricing (SW0173547).
Ex. 79	Letter to John Ziebell from Al Graf dated September 21, 1995 re Albuterol price increase (SPW013821).
Ex. 80	Document titled <i>Schering Laboratories Generic Strategy</i> (SPW0039766-836).
Ex. 81	Deposition of Denise Kaszuba dated August 18, 2005 (excerpted pages only).

Ex. 82	Deposition of Dianne Ihling dated August 12, 2005 (excerpted pages only).
Ex. 83	Deposition of Christof Marre dated August 26, 2005 (excerpted pages only).
Ex. 84	Deposition of John Akscin dated August 11, 2005 (excerpted pages only).
Ex. 85	Deposition of Marsha Peterson dated April 13, 2005.
Ex. 86	Deposition of Kathleen Stamm dated January 25, 2006 (excerpted pages only).

/s/ Jeniphr Breckenridge

Jeniphr A.E. Breckenridge
HAGENS BERMAN SOBOL SHAPIRO
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101

April 26, 2007, Seattle, Washington
Date and Place of Execution

CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **DECLARATION OF JENIPHR BRECKENRIDGE IN SUPPORT OF THE STATE OF MONTANA'S MEMORANDA IN OPPOSITION TO INDIVIDUAL THE DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**, to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on April 26, 2007, a copy to LexisNexis File & Serve for Posting and notification to all parties.

By /s/ Steve W. Berman
Steve W. Berman
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